

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CHARLES SMITH ENTERPRISES,
LLC,

Plaintiff,

v.

CATAPULT SPORTS, INC.,

Defendant.

Civil Action No. 1:21-cv-01278-CFC

JURY TRIAL DEMANDED

CHARLES SMITH ENTERPRISES,
LLC,

Plaintiff,

v.

DVSPORT, INC.,

Defendant.

Civil Action No. 1:21-cv-01279-CFC

JURY TRIAL DEMANDED

AMENDED JOINT CLAIM CONSTRUCTION CHART

Pursuant to the Scheduling Order in these cases, Plaintiff Charles Smith Enterprises, LLC (“CSE”) and Defendants Catapult Sports, Inc. (“Catapult”) and DVSPORT, Inc. (“DVSPORT”), collectively “the Parties,” hereby provide the Court with their Amended Joint Claim Construction Chart with respect to the patents in suit in these cases, namely CSE’s U.S. Patent No. 6,877,010 (“the ’010 patent”) and its related U.S. Patent No. 7,756,876 (“the ’876 patent”).

1. Construction of terms on which the Parties agree.

The Parties do not presently agree on the construction of any disputed terms in either the '010 patent or the '876 patent. However, since the filing of the initial Joint Claim Construction Chart on October 24, 2022 (D.I. 42), the Parties discussions and exchange of claim construction briefs have resulted in seven of the original twenty-two terms being dropped from that initial chart as no longer requiring the Court's consideration. The dropped terms were originally designated Terms 4-10 by the Parties, and the dropping of those Terms 4-10 also removes from the Court's consideration the issues of whether any claim term is written in "means-plus-function" language and whether any such term is indefinite under 35 U.S.C. § 112, ¶ 2.

The Parties have grouped the remaining fifteen terms (designated Terms 1-3 and 11-22) into four categories for ease of reference and consideration in the Joint Claim Construction Brief filed January 23, 2023. (D.I. 55.) Specifically, these four groups are Terms 1-3 ("a customizable media logging system for indexing media" and "media" or "the media"), Terms 11, 13, 14, 17, and 19-21 ("customizable"/"custom"), Terms 15, 16 and 22 ("graphical user interface generator") and Terms 12 and 18 ("timer object"). Therefore, the below Amended Joint Claim Construction Chart has been reorganized to present the disputed claim terms in the foregoing order, with each term also labelled with its foregoing

numeric designation for the Court's convenience in comparing the instant chart to the Parties' arguments in the Joint Claim Construction Brief.

2. Parties' constructions of disputed terms.

The parties' proposed claim constructions are provided below. Text-searchable PDF of each of the patents in suit were attached as Exhibits A and B, respectively, to the initial Joint Claim Construction Chart of October 24, 2022. The Parties reserve their rights to cite additional supporting evidence based on arguments raised in the claim construction briefs. Each Party reserves its right to use any citation identified by another Party as appropriate to rebut each other's positions. Moreover, each Party reserves the right to supplement, amend, and/or modify the following positions for any reason as the claim construction process proceeds. Each Party further reserves the right to provide additional positions and/or constructions once another Party make its positions clear and/or offers evidence and/or argument regarding the construction of any claim term, including during a claim construction hearing. In addition, each Party reserves the right to rely on any extrinsic evidence, including expert testimony, to refute or rebut any claim construction position and/or intrinsic and/or extrinsic evidence offered by any other Party, including at a claim construction hearing.

The Parties' Positions on Terms 1-3, "a customizable media logging system for indexing media" (Term 1) and "media" or "the media" (Terms 2 and 3)

Appears in claims	Claim Term and Term No.	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
claim 1 of the '010 patent (and dependent claims that reference same term, <i>e.g.</i> , claims 4, 5 and 8-10)	Term 1 "a customizable media logging system for indexing media"	a customizable media logging system that encodes video content in an MPEG stream format for indexing	<p>The '010 patent:</p> <p><i>See, e.g.</i>, Abstract; 7:60-8:30; 8:31-11:64; 13:62-17:35; and all Figures referenced or described in any of the foregoing</p> <p>The '010 patent prosecution history:</p> <p><i>See, e.g.</i>, the original claims, specification and drawings; and all substantive prosecution, including 12/23/03 non-final rejection, 6/18/04 response to non-final</p>	<p>No construction necessary – plain and ordinary meaning</p> <p>Defendants propose a construction for "customizable media logging system." Defendants' proposed construction for that term is provided below.</p>	

			rejection and amended claims, and 11/26/04 notice of allowance		
claim 1 of the '010 patent (and dependent claims that reference same term, <i>e.g.</i> , claims 5 and 8-9); and	Term 2 “media” or “the media”	media in an MPEG stream format	<p>The '010 patent:</p> <p><i>See, e.g.</i>, Abstract; 1:13-25; 1:25-4:12; 4:13-5:6 (and all Figures); 5:6-7:37; 7:60-11:64; 13:62-17:35; and all Figures referenced and/or described in any of the foregoing</p> <p>The '010 patent prosecution history:</p> <p><i>See, e.g.</i>, the original claims, specification and drawings; and all substantive prosecution, including 12/23/03 non-final rejection, 6/18/04 response to non-final</p>		

<p>claim 1 of the '876 patent (and dependent claims that reference same term, <i>e.g.</i>, claims 2, 3, 5, 6, 9, 10 and 13)</p>	<p>Term 3 “media” or “the media”</p>	<p>media in an MPEG stream format</p>	<p>rejection and any amended claims, and 11/26/04 notice of allowance</p> <p>The '876 patent:</p> <p><i>See, e.g.</i>, Abstract; 1:13-25; 1:25-4:12; 4:13-5:6 (and all Figures); 5:6-7:37; 7:60-11:64; 13:48-17:18; and all Figures referenced and/or described in any of the foregoing</p> <p>The '876 patent prosecution history:</p> <p><i>See, e.g., See, e.g.</i>, the original claims, specification and drawings; and all substantive prosecution, including 8/14/07 non-final rejection, 12/10/07 response to non-final</p>		
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			rejection and any amended claims, 3/26/08 final rejection, 6/26/08 response to final rejection and any amended claims, 7/25/08 advisory action, 8/26/08 notice of appeal, 8/26/08 pre-appeal brief conference request, 1/6/09 appeal brief, 3/10/09 non-final rejection, 9/10/09 response to non-final rejection and any amended claims, 9/24/09 non-final rejection, 12/10/09 response to non-final rejection and any amended claims, and 3/5/10 notice of allowance		
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The Parties' Positions on Terms 11, 13, 14, 17, 19, 20 and 21, "customizable" and "custom"					
Appears in claims	Claim Term and Term No.	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
claim 1 of the '010 patent	Term 11 "customizable media logging system"	No construction necessary, but see above construction for "a customizable media logging system for indexing media"		"changeable media logging system that can be changed on the fly by the customer"	<i>See, e.g.</i> , Ex. A ('010 Patent) at 2:55-63, 3:45-52, 5:29-33, 5:45-50, 6:64-7:2, 7:9-13, 7:43-52, 11:57-13:38, 14:4-12, 14:49-54, 16:42-57, 17:26-31, FIGS. 2-3, 8, 12-17, FIGS. 25, 41-42; US 8,060,515 ("the '515 patent") ¹ at independent claims 1, 14, and 21. <i>See also</i> '010 File History at Response to Office Action (June 18, 2004) at 2-4 and 6-7, Notice of Allowance

¹ The '515 patent is a continuation of the '876 patent.

					<p>(November 26, 2004) at 2-3.</p> <p><i>See also</i> '876 File History at Response to Office Action (December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response to Office Action (June 26, 2008) at 9-11, Pre-Appeal Conference Request (August 26, 2008) at 2-5, Appeal Brief (November 10, 2008) at 7, 9, and 11-15, Response to Office Action (September 10, 2009) at 3-4, Response to Office Action (December 10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2.</p> <p><i>See also</i> '515 File History at Response</p>
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					to Office Action (June 14, 2011) at 4, 6, and 10-11.
claim 1 of the '010 patent	Term 13 “wherein the graphical user interface is customizable to correspond to types of events that occur in the particular media being logged”	No construction necessary		“wherein the graphical user interface is changeable on the fly by the customer to correspond to types of events that occur in the particular media being logged”	<p><i>See, e.g.,</i> Ex. A ('010 Patent) at 2:55-63, 3:45-52, 6:64-7:25, 11:57-13:38, 14:4-12, 14:49-54, 16:42-57, 17:26-31, FIGS. 12-17, FIGS. 25, 41-42; '515 patent at independent claims 1, 14, and 21.</p> <p><i>See also</i> '010 File History at Response to Office Action (June 18, 2004) at 2-4 and 6-7, Notice of Allowance (November 26, 2004) at 2-3.</p> <p><i>See also</i> '876 File History at Response to Office Action</p>

					<p>(December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response to Office Action (June 26, 2008) at 9-11, Pre-Appeal Conference Request (August 26, 2008) at 2-5, Appeal Brief (November 10, 2008) at 7, 9, and 11-15, Response to Office Action (September 10, 2009) at 3-4, Response to Office Action (December 10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2.</p> <p><i>See also</i> '515 File History at Response to Office Action (June 14, 2011) at 4, 6, and 10-11.</p>
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claim 1 of the '010 patent	Term 14 “custom graphical user interface including custom user interface objects”	No construction necessary		“the graphical user interface can be changed on the fly by the customer [to include user interface objects changeable by the customer]”	<p><i>See, e.g.,</i> Ex. A ('010 Patent) at 2:55-63, 3:45-52, 6:64-7:25, 11:57-13:38, 14:4-12, 14:49-54, 16:42-57, 17:26-31, FIGS. 12-17, FIGS. 25, 41-42; '515 patent at independent claims 1, 14, and 21.</p> <p><i>See also</i> '010 File History at Response to Office Action (June 18, 2004) at 2-4 and 6-7, Notice of Allowance (November 26, 2004) at 2-3.</p> <p><i>See also</i> '876 File History at Response to Office Action (December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response to Office Action (June 26, 2008) at 9-</p>
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					<p>11, Pre-Appeal Conference Request (August 26, 2008) at 2-5, Appeal Brief (November 10, 2008) at 7, 9, and 11-15, Response to Office Action (September 10, 2009) at 3-4, Response to Office Action (December 10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2.</p> <p><i>See also</i> '515 File History at Response to Office Action (June 14, 2011) at 4, 6, and 10-11.</p>
claim 1 of the '876 patent	Term 17 “events administrator programmed logic circuitry . .	No construction necessary		“configured to allow a customer to define custom terminology applicable to the defined custom event”	<p><i>See, e.g.,</i> Ex. B ('876 Patent) at 2:57-2:65, 3:44-50, 6:59-63, 7:4-20, 11:48-13:22, 13-59-67, 14:36-41, 16:27-</p>

	. configured to define custom terminology applicable to the defined custom event”				<p>42, 17:7-13, FIGS. 12-17, FIGS. 25, 41-42; ’515 patent at independent claims 1, 14, and 21.</p> <p><i>See also</i> ’876 File History at Response to Office Action (December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response to Office Action (June 26, 2008) at 9-11, Pre-Appeal Conference Request (August 26, 2008) at 2-5, Appeal Brief (November 10, 2008) at 7, 9, and 11-15, Response to Office Action (September 10, 2009) at 3-4, Response to Office Action (December 10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2.</p>
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					<p><i>See also</i> '010 File History at Response to Office Action (June 18, 2004) at 2-4 and 6-7, Notice of Allowance (November 26, 2004) at 2-3.</p> <p><i>See also</i> '515 File History at Response to Office Action (June 14, 2011) at 4, 6, and 10-11.</p>
claim 1 of the '876 patent	Term 19 “wherein the events administrator programmed logic circuitry is customizable by a user based in part on the type of media being indexed”	No construction necessary		“wherein the events administrator programmed logic circuitry is changeable on the fly by a customer user based in part on the type of media being indexed”	<p><i>See, e.g.,</i> Ex. B ('876 Patent) at 2:57-2:65, 3:44-50, 6:59-63, 7:4-20, 11:48-13:22, 13-59-67, 14:36-41, 16:27-42, 17:7-13, FIGS. 12-17, FIGS. 25, 41-42; '515 patent at independent claims 1, 14, and 21.</p>

					<p><i>See also</i> '876 File History at Response to Office Action (December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response to Office Action (June 26, 2008) at 9-11, Pre-Appeal Conference Request (August 26, 2008) at 2-5, Appeal Brief (November 10, 2008) at 7, 9, and 11-15, Response to Office Action (September 10, 2009) at 3-4, Response to Office Action (December 10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2.</p> <p><i>See also</i> '010 File History at Response to Office Action (June 18, 2004) at 2-4 and 6-7, Notice of</p>
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					<p>Allowance (November 26, 2004) at 2-3.</p> <p><i>See also</i> '515 File History at Response to Office Action (June 14, 2011) at 4, 6, and 10-11.</p>
claim 5 of the '876 patent	<p>Term 20</p> <p>“wherein the graphical user interface is customizable to correspond to types of events that occur in the particular media being logged”</p>	No construction necessary		<p>“wherein the graphical user interface is changeable on the fly by the customer to correspond to types of events that occur in the particular media being logged”</p>	<p><i>See, e.g.</i>, Ex. B ('876 Patent) at 2:57-2:65, 3:44-50, 6:59-63, 7:4-20, 11:48-13:22, 13-59-67, 14:36-41, 16:27-42, 17:7-13, FIGS. 12-17, FIGS. 25, 41-42; '515 patent at independent claims 1, 14, and 21.</p> <p><i>See also</i> '876 File History at Response to Office Action (December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response</p>

					<p>to Office Action (June 26, 2008) at 9-11, Pre-Appeal Conference Request (August 26, 2008) at 2-5, Appeal Brief (November 10, 2008) at 7, 9, and 11-15, Response to Office Action (September 10, 2009) at 3-4, Response to Office Action (December 10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2.</p> <p><i>See also</i> '010 File History at Response to Office Action (June 18, 2004) at 2-4 and 6-7, Notice of Allowance (November 26, 2004) at 2-3.</p> <p><i>See also</i> '515 File History at Response</p>
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					to Office Action (June 14, 2011) at 4, 6, and 10-11.
claim 13 of the '876 patent	Term 21 “custom display”	No construction necessary		“display can be changed on the fly by the customer”	<p><i>See, e.g.</i>, Ex. B ('876 Patent) at 2:57-2:65, 3:44-50, 6:59-63, 7:4-20, 11:48-13:22, 13-59-67, 14:36-41, 16:27-42, 17:7-13, FIGS. 12-17, FIGS. 25, 41-42; '515 patent at independent claims 1, 14, and 21.</p> <p><i>See also</i> '876 File History at Response to Office Action (December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response to Office Action (June 26, 2008) at 9-11, Pre-Appeal Conference Request (August 26, 2008) at 2-5, Appeal Brief</p>

					<p>(November 10, 2008) at 7, 9, and 11-15, Response to Office Action (September 10, 2009) at 3-4, Response to Office Action (December 10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2.</p> <p><i>See also</i> '010 File History at Response to Office Action (June 18, 2004) at 2-4 and 6-7, Notice of Allowance (November 26, 2004) at 2-3.</p> <p><i>See also</i> '515 File History at Response to Office Action (June 14, 2011) at 4, 6, and 10-11.</p>
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The Parties' Positions on Terms 15, 16 and 22, "graphical user interface generator"					
Appears in claims	Claim Term and Term No.	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
claim 1 of the '010 patent	Term 15 "wherein the graphical user interface generator uses information entered by a user to create the customized user interface"	No construction necessary		"wherein the graphical user interface generator uses information entered by a customer user to create the changeable user interface as defined by the customer [avoiding the need to hard code the interfaces]"	<p><i>See, e.g.</i>, Ex. A ('010 Patent) at 2:55-63, 3:45-52, 6:64-7:25, 11:57-13:38, 14:4-12, 14:49-54, 16:42-57, 17:26-31, FIGS. 12-17, FIGS. 25, 41-42; '515 patent at independent claims 1, 14, and 21.</p> <p><i>See also</i> '010 File History at Response to Office Action (June 18, 2004) at 2-4 and 6-7, Notice of Allowance (November 26, 2004) at 2-3.</p> <p><i>See also</i> '876 File History at Response</p>

					<p>to Office Action (December 10, 2007) at 2, 4-5, 7, 8, and 11-12, Response to Office Action (June 26, 2008) at 9-11, Pre-Appeal Conference Request (August 26, 2008) at 2-5, Appeal Brief (November 10, 2008) at 7, 9, and 11-15, Response to Office Action (September 10, 2009) at 3-4, Response to Office Action (December 10, 2009) at 12-14, Notice of Allowance (March 5, 2010) at 2.</p> <p><i>See also</i> '515 File History at Response to Office Action (June 14, 2011) at 4, 6, and 10-11.</p>
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claim 1 of the '010 patent	Term 16 “graphical user interface generator”	No construction necessary		“graphical user interface software as a graphical user interface generator”	<p><i>See, e.g.,</i> Ex. A ('010 Patent) at 2: 55-67, 7:9-25, 11:57-13:38, FIGS. 12-17.</p> <p><i>See also</i> '876 File History at Appeal Brief (November 10, 2008) at 11-12.</p>
claim 13 of the '876 patent	Term 22 “a GUI generator”	No construction necessary		“graphical user interface software as a GUI generator”	<p><i>See, e.g.,</i> Ex. B ('876 Patent) at 11:48-13:22, FIGS. 12-17.</p> <p><i>See also</i> '876 File History at Appeal Brief (November 10, 2008) at 11-12.</p>

The Parties' Positions on Terms 12 and 18, "timer object"					
Appears in claims	Claim Term and Term No.	Plaintiff's Proposed Construction	Plaintiff's Intrinsic Evidence	Defendants' Proposed Construction	Defendants' Intrinsic Evidence
claim 1 of the '010 patent	Term 12 "a timer object that provides a time reference upon request in connection with the media"	No construction necessary		"a timer object that provides the amount of the media that has been captured upon request in connection with the media"	<i>See, e.g.</i> , Ex. A ('010 Patent) at 5:25-29, 6:12-20, 6:21-63, 7:43-52, FIGS. 1, 3.
claim 1 of the '876 patent	Term 18 "a timer object configured to provide a time reference upon request in connection with the media"	No construction necessary		"a timer object configured to provide the amount of the media that has been captured upon request in connection with the media"	<i>See, e.g.</i> , Ex. B ('876 Patent) at 5:23-27, 6:9-16, 6:17-58, FIG. 1.

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Respectfully submitted,

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